IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3247 of 2007()

C.C.NO.1108/07 OF JFMC-II, KOCHI.

PETITIONER: 1ST ACCUSED

ANEESH, S/O. MUNDANPARAMBIL BABA,
HOUSE NO.23/908 A, PALLEKKATU PARAMBU,
THANGAL NAGAR, PALLURUTHI.

BY ADV. SRI.NIDHI BALACHANDRAN

RESPONDENTS/COMPLAINANT & STATE:
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1. VAHIDA, W/O. ANEESH, AGED 20 YEARS,
HOUSE NO.23/908 A, PALLEKKATTU PARAMBU,
THANGAL NAGAR, PALLURUTHI.

2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

3. HYRUNNISSA, W/O.MUNDANPARAMBIL BABA,
HOUSE NO.23/908A, PALLEKKATU PARAMBU,
THANGAL NAGAR, PALLURUTHI.

4. ANITHA, D/O.MUNDANPARAMBIL BABA,
HOUSE NO.23/908A, PALLEKKATU PARAMBU,
THANGAL NAGAR, PALLURUTHI.

5. JASMIN,D/O.MUNDANPARAMBIL BABA,
HOUSE NO.23/908A, PALLEKKATU PARAMBU,
THANGAL NAGAR, PALLURUTHI.

6. LAILA, W/O.NAUSHAD, PALLAM LAINE,
PANAMBALLI DESOM, MATTANCHERY VILLAGE.

BY ADV. SRI.SAIJO HASSAN

PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3247 of 2007

Dated this the 25th day of October 2007

O R D E R

The petitioner, along with additional respondents 3 to 6 faces indictment in a prosecution for the offence punishable under Section 498A I.P.C. The first respondent is the de facto complainant. The petitioner/first accused is her husband. Additional respondents 3 to 6 are the relatives of the petitioner herein. First petitioner and additional respondents 3 to 6 face indictment in a prosecution under Section 498A I.P.C. Cognizance was taken on the basis of a final report submitted by the police after due investigation. The matter is pending before the learned Judicial First Class Magistrate Court-II, Kochi as C.C.No.1108/2007.

2. The petitioner and the first respondent have now appeared before this court personally and through their respective counsel and it is reported that the disputes between them have been settled amicably. The first respondent has compounded the offence allegedly committed by the

petitioner/first accused and additional respondents 3 to 6 (co-accused). They pray that the composition may be accepted and the prosecution against the petitioner and the co-accused may be brought to premature termination. It is submitted at the Bar that the spouses have resumed harmonious co-habitation.

3. I am satisfied from the submissions made at the Bar by the counsel for the rival contestants and the statements of the parties concerned who are present in court that the disputes between them have been settled and no disputes survive. The learned counsel for the respondents vouches for the fact of settlement and composition by the first respondent.

4. I am, in these circumstances, satisfied that if legally permissible, the composition can be accepted and premature termination of the prosecution, which has now become irrelevant and unnecessary, can be brought about.

5. But the offence under Section 498A I.P.C is not legally compoundable. The learned counsel for the contestants, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in

such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked and proceedings initiated against the respondents by the petitioner can be brought to premature termination.

6. In the result, this petition is allowed. C.C.No.1108/07 pending before the learned Judicial First Class Magistrate Court-II, Kochi against the petitioner and additional respondents 3 to 6 under Section 498A I.P.C is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007